

AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE MARCH 4, 2015

SENATE BILL

No. 35

Introduced by Senator Wolk
(Principal coauthor: Assembly Member Dodd)

December 1, 2014

An act to add *and repeal* Sections 17207.14 and 24347.14 ~~to~~ of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Wolk. Income and corporation taxes: deductions: disaster relief.

The Personal Income Tax Law and the Corporation Tax Law provide for a deduction of specified losses sustained as a result of disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance or, for other disasters for which a specific law has been enacted, proclaimed by the Governor to be in a state of emergency. Those laws allow a taxpayer to elect to deduct those disaster losses on the return for the taxable year preceding the taxable year in which the disaster occurred, filed by a specified date. Existing law also allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2013, allows net operating losses to be carrybacks to each of the preceding 2 taxable years, as provided, but varies the amount of carryback allowed for net operating losses attributed to specified taxable years.

This bill would, for taxable years beginning on or after January 1, 2014, *and before January 1, 2024*, extend the provisions relating to disaster losses to losses in any city, county, or city and county that is proclaimed by the Governor to be in a state of emergency and would extend the time during which a taxpayer may claim the deduction. This bill would additionally provide that any law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss, other than those variations already imposed in existing law, shall not apply to a net operating loss attributable to these specified disaster losses.

This bill would make a legislative finding and declaration relating to the statewide public purpose served by the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares:*

2 *(a) On August 24, 2014, the Governor of California proclaimed*
3 *a state of emergency due to the South Napa Earthquake that*
4 *occurred in August 2014, within the Counties of Napa, Solano,*
5 *and Sonoma, thus qualifying affected persons for various forms*
6 *of governmental assistance and relief.*

7 *(b) On September 11, 2014, the President of the United States*
8 *made a Major Disaster Declaration for the Counties of Napa and*
9 *Solano due to the South Napa Earthquake, thus qualifying affected*
10 *persons to file an amended return to deduct a disaster loss in the*
11 *taxable year prior to the loss year.*

12 *(c) This act is consistent with, and supplements, the proclaimed*
13 *disaster assistance and relief by providing necessary tax relief to*
14 *persons in the affected jurisdictions by allowing them to maintain*
15 *essential basic services and repair damage to, and restore, their*
16 *homes and businesses.*

17 *(d) The Legislature has enacted identical treatment for almost*
18 *every significant disaster that has occurred in California for the*
19 *last 25 years.*

20 ~~SECTION 1.~~

21 *SEC. 2. Section 17207.14 is added to the Revenue and Taxation*
22 *Code, to read:*

1 17207.14. (a) For taxable years beginning on or after January
2 1, 2014, *and before January 1, 2024*, Section 165(i) of the Internal
3 Revenue Code, relating to disaster losses, shall be applicable to
4 any loss sustained as a result of any disaster occurring in any city,
5 county, or city and county in this state that is proclaimed by the
6 Governor to be in a state of emergency.

7 (b) (1) For losses described in subdivision (a), the election
8 under Section 165(i) of the Internal Revenue Code, relating to
9 disaster losses, may be made on a return or amended return filed
10 on or before the due date of the return, determined with regard to
11 any extension of time for filing the return, for the taxable year in
12 which the disaster occurred.

13 (2) Notwithstanding Section 18572, this subdivision shall apply
14 to any loss described in subdivision (a).

15 (c) Unless specifically provided otherwise, any law, other than
16 Section 17276.20, that suspends, defers, reduces, or otherwise
17 diminishes the deduction of a net operating loss shall not apply to
18 a net operating loss attributable to the loss described in subdivision
19 (a).

20 (d) *This section shall remain in effect only until December 1,*
21 *2024, and as of that date is repealed.*

22 ~~SEC. 2.~~

23 SEC. 3. Section 24347.14 is added to the Revenue and Taxation
24 Code, to read:

25 24347.14. (a) For taxable years beginning on or after January
26 1, 2014, *and before January 1, 2024*, Section 165(i) of the Internal
27 Revenue Code, relating to disaster losses, shall be applicable to
28 any loss sustained as a result of any disaster occurring in any city,
29 county, or city and county in this state that is proclaimed by the
30 Governor to be in a state of emergency.

31 (b) (1) For losses described in subdivision (a), the election
32 under Section 165(i) of the Internal Revenue Code, relating to
33 disaster losses, may be made on a return or amended return filed
34 on or before the due date of the return, determined with regard to
35 any extension of time for filing the return, for the taxable year in
36 which the disaster occurred.

37 (2) Notwithstanding Section 18572, this subdivision shall apply
38 to any loss described in subdivision (a).

39 (c) Unless specifically provided otherwise, any law, other than
40 Section 24416.20, that suspends, defers, reduces, or otherwise

1 diminishes the deduction of a net operating loss shall not apply to
2 a net operating loss attributable to the loss described in subdivision
3 (a).

4 *(d) This section shall remain in effect only until December 1,*
5 *2024, and as of that date is repealed.*

6 ~~SEC. 3.~~

7 *SEC. 4.* The Legislature finds and declares that this act fulfills
8 a statewide public purpose because it is consistent with, and
9 supplements, the proclaimed disaster assistance and relief by
10 providing necessary tax relief to persons in the affected
11 jurisdictions by allowing them to maintain essential basic services
12 and repair damage to, and restore, their homes and businesses.

13 ~~SEC. 4.~~

14 *SEC. 5.* This act provides for a tax levy within the meaning of
15 Article IV of the Constitution and shall go into immediate effect.